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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,659	11/29/2001	Thomas G. Xydis	65,116-036	7595

7590

09/29/2003

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EXAMINER

LAU, TUNG S

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 09/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/998,659

Applicant(s)

XYDIS, THOMAS G.

Examiner

Tung S Lau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 12-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9, 12-17 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

a. Claims 1, 12, 2, 3, 5, 7, 8, 9, 13, 15, 16, 17 are rejected under 35 U.S.C.

103(a) as being unpatentable over Wallstedt et al. (U.S. Patent 6,330,450) in view of Decker et al. (U.S. Patent 4,980,897).

Regarding claims 1, 12:

Wallstedt discloses a method of including the steps of for transmittance of the data blocks over wireless connections to the first electronic device (abstract), spreading the plurality of data blocks over a plurality of radio frequencies such that each of the data blocks is transmitted at a different of the frequencies for secure transmission between the first electronic device and the second electronic device (Col. 1-2, Lines 40-3); transmitting the data blocks in a plurality of signals at the different frequencies to establish communication between the first electronic device and the second electronic device (Col. 1-2, Lines 40-3), detecting the plurality of signals at the different frequencies with the first electronic device (Col. 1-2, Lines 40-3); measuring a signal strength for each of a predetermined number of the detected plurality of signals at the different

frequencies (Col. 1-2, Lines 40-3); determining an overall signal strength from the predetermined number of measured signal strengths and comparing the overall signal strength to a predetermined threshold (Col. 1-2, Lines 40-3); and enabling the second electronic device in response to the overall signal strength being above the predetermined threshold and disabling the second electronic device in response to the overall signal strength being below the predetermined threshold (Col. 1-2, Lines 40-3).

Wallstedt does not disclose the data partition in the device, modulation; Decker discloses the data partition in the device (Col. 6, Lines 45-68), modulation (Col. 1, Lines 5-13), in order to reduce data throughput and reduces implementation complexity (abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wallstedt to have the data partition in the device and use modulation taught by Decker in order to reduce data throughput and reduces implementation complexity (abstract).

Regarding claims 2, 3, 5, 7, 8, 9, 13, 15, 16, 17:

Wallstedt discloses the device in response to the overall signal strength being above the predetermined threshold (abstract), isolated signal (col. 1-2, lines 61-3), above predetermined threshold (fig. 3, 5), secure transmission (col. 8, lines 16-33), detection signal during time interval (abstract, col. 8, lines 25-33),

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average over time (col. 4, lines 54-65), scanning frequencies (fig. 5, unit 500, 502).

b. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallstedt et al. (U.S. Patent 6,330,450) and Decker et al. (U.S. Patent 4,980,897) and further in view of Nicholson (U.S. Patent 6,445,297).

Regarding claim 6 and 14:

Wallstedt and Decker disclose a method including the subject matter discussed above except the use of maximum detected processing signal; Nicholson discloses the use of maximum detected processing signal (Col. 5, Lines 10-20), in order to increase range of the signal (col. 5, lines 10-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wallstedt and Decker to have the use of average and maximum detected processing signal, modulate signal taught by Nicholson in order to increase range of the signal.

### ***Claim Objections***

2. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitation of the base claim and any intervening claims.

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The following is an examiner's statement of reasons for allowance: prior art fail to teach the use of logarithmic value of the signal.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-9 and 12-17 have been considered but are moot in view of the new ground(s) of rejection. However, applicant's arguments filed 7/22/2003 have been fully considered but they are not persuasive.

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory

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period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 703-305-3309.

The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 703-308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5841 for regular communications and 703-308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TC2800 RightFAX Telephone Numbers : TC2800 Official Before-Final RightFAX - (703) 872-9318, TC2800 Official After-Final RightFAX - (703) 872-9319

TC2800 Customer Service RightFAX - (703) 872-9317

TL

September 9, 2003

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